



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/970,045	11/13/1997	EUGEN KOREN	20487/113	2118
7590 11/04/2005			EXAMINER	
Steven L. Highlander FULBRIGHT & JAWORSKI, LLP 600 Congress Avenue, Suite 2400 Austin, TX 78701			DUFFY, PATRICIA ANN	
			ART UNIT	PAPER NUMBER
			1645	

DATE MAILED: 11/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**UNITED STATES DEPARTMENT OF COMMERCE****U.S. Patent and Trademark Office**

Address : COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
---------------------------------	-------------	---	---------------------

EXAMINER

ART UNIT

PAPER

110105

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

The amendment filed on August 26, 2005 has not been considered because it is not in compliance with either 37 CFR 41.41(a) or 37 CFR 41.33. The paper filed August 26, 2005 is deemed to be a new amendment to the claims. 37 CFR 41.41(a) states that "(2) A reply brief *shall not* include any *new* or non-admitted *amendment* or an new or non-admitted affidavit or other evidence." MPEP 1208 states "A paper that contains an amendment is not a reply brief within the meaning of 37 CFR 41.41. Such a paper will not be intited to entry simply because it is characterized as a reply brief." With respect to 37 CFR 41.33 exceptions are provided, however, the examiners answer did not include a new ground of rejection and such the amendment has not been considered to be a request to reopen prosecuion pursuant to 41.39(b)(1) nor is it qualified under the exceptions 41.50(a)(2)(i) and 41.50(b)(1). Applicant set forth no basis in Rule or Statute for the proposed amendment which was filed subsequent to the mailing of the Examiner's Answer. Futher, it is noted that this identical issue was addressed in an interview with the Attorney of record before the Examiner's Answer was mailed and Applicants were unwilling to resolve the issues of record after the brief was filed but before the Examiners answer was written and mailed and as such the amendment is not timely.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patricia A. Duffy whose telephone number is 571-272-0855. The examiner can generally be reached on M-Th 6:30 am - 6:00 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynette Smith can be reached on 571-272-0864.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Patricia A. Duffy
Patricia A. Duffy
Primary Examiner
Art Unit: 1645